

### **EXAMINER'S AMENDMENT**

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview (voice mail) with Karen Kaiser on October 24, 2008.

2. The application has been amended as follows:

- a. In claim 1, part (a), line 4, delete ";" and insert "wherein the high acyl gellan gum is present in an amount of from about 0.3 to about 5% and the low acyl gellan gum is present in an amount of from about 0.1 to about 4% by weight of the composition on a wet basis;".
- b. Cancel claim 4.
- c. Amend claims 13, 14, 18, 21 and 24 to depend from claim "1", instead of claim 4.

### ***Reasons for Allowance***

3. The following is an examiner's statement of reasons for allowance:

Applicant submitted a Declaration under Rule 132 (37 C.F.R. § 1.132) on 08/07/08 which included data from experiments based on the methodology of Gilleland et al. (US 6,375,981 B1), which is the primary prior art reference. Three sample compositions of high acyl gellan gum, low acyl gellan gum and a combination of high acyl and low acyl gellan gum were used. With the low acyl gellan (Sample 2), the wet

film could not be removed from the casting plate until after 6 minutes and the films would not seal together to produce capsules. With high acyl, or a blend of high and low acyl (Samples 1 and 3), the seal strength of the capsules was not sufficient and lead to 20-25% leakage. Applicant demonstrated that films produced according to Gilleland could not produce capsules. Therefore, the declaration is persuasive.

Applicant agreed to remove the transitional phrase “consisting essentially of” from claim 1. Applicant also agreed to incorporate the limitations of claim 4 (regarding the levels of high acyl gellan gum and low acyl gellan gum) into claim 1.

A further prior art search did not disclose a reference that teaches a soft capsule shell comprising a high acyl gellan gum and a low acyl gellan gum; a starch; and a plasticizer.

Therefore, the claimed invention is novel and patentably distinct over the prior art of record.

4. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled “Comments on Statement of Reasons for Allowance.”

***Conclusion***

5. Claims 1, 7, 9, 10, 13-22, and 24-26 are allowed.
6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aradhana Sasan whose telephone number is (571) 272-

9022. The examiner can normally be reached Monday to Thursday from 6:30 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Woodward, can be reached at 571-272-8373. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Aradhana Sasan/  
Examiner, Art Unit 1615

/MP WOODWARD/  
Supervisory Patent Examiner, Art Unit 1615